

# The subversion of due process in America

Tom Carter  
12 August 2013

The Obama administration is using information obtained through its illegal surveillance programs to target Americans for criminal investigations unrelated to terrorism.

According to Reuters reports published last week, information gathered by the National Security Agency (NSA)—including electronic wiretaps and phone records—is being shared with the Drug Enforcement Agency (DEA), a division of the Justice Department. A shadowy interagency unit that includes the DEA, the FBI and the NSA, called the Special Operations Division (SOD), uses this information to target US citizens for investigation and prosecution, including for narcotics crimes.

In a direct conspiracy to subvert due process and the rule of law, the DEA and other police agencies conceal their use of such information from attorneys, judges and the public. Reuters describes how federal law enforcement agencies that utilize such evidence in criminal prosecutions are trained to “recreate” the investigative trail in a manner that violates defendants’ constitutional right to a fair trial.

The Fourth Amendment, part of the Bill of Rights, provides that the “right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.” It requires the police to show “probable cause” and obtain a court warrant “particularly describing the place to be searched, and the persons or things to be seized” before a search or seizure of documents is carried out.

The various surveillance programs involving the seizure and analysis of the telephone records, emails, text messages and other communications of virtually every American and untold millions of people around the world, exposed in recent weeks by whistleblower Edward Snowden, are in flagrant violation of the Fourth Amendment.

According to longstanding precedent, evidence obtained from warrantless or illegal searches is inadmissible in a criminal trial. Prosecutors are, moreover, legally required to turn over exculpatory evidence—such as the existence of tainted evidence—to criminal defendants and their attorneys. These legal doctrines, derived from the Bill of Rights, are essential to a fair trial. The DEA-NSA-FBI conspiracy circumvents this entire system of legal protections, railroading people to jail on the basis of fraud and the use of illegally obtained evidence.

How does this work in practice? The NSA might, for example, intercept a text message that includes the word “marijuana” through one of its mass surveillance programs. It could then forward to the Special Operations Division the identity of the person who sent the message.

That person could be targeted and his or her car pulled over and searched under the pretext of conducting an ordinary traffic stop. The person would have no way of knowing that he or she had been targeted through NSA surveillance. Should the individual be prosecuted, the authorities would conceal from the defense counsel and possibly the court the fact that the incriminating evidence resulted from a warrantless surveillance operation.

These latest revelations are a further indication of how deeply the entire political establishment is mired in corruption and criminality. To an increasing degree, the government operates without regard for the constraints imposed by the Constitution, the Bill of Rights and the rule of law in general.

There is every reason to suspect that these practices extend well beyond the Drug Enforcement Agency, and that the poison fruit of NSA surveillance is being broadly utilized within the judicial system. According to subsequent reports, the DEA shares such information as well as techniques for covering up the source of this

information with other government agencies, including the Internal Revenue Service (IRS).

Two tactics have been used to defend the US government's sweeping surveillance programs.

First, Obama, intelligence officials and lawmakers have simply lied about the level of intrusiveness of the spying, claiming that it takes place mainly overseas, is subject to various checks and limitations, and does not involve looking at the "content" of communications. "Nobody's listening to the content of people's phone calls," Obama declared in June, dismissing a reporter's question about surveillance as "hype." It is now abundantly clear that these statements are outright lies.

Secret documents leaked by Snowden have revealed that there are no real limits on the activities of the US spy agencies. All of a person's phone calls, emails, text messages, online activities, financial records, medical records and other information are a mouse click away from a government agent. Government agents can even surreptitiously activate and use cameras and microphones on computers and smart phones.

The second tactic is to invoke the so-called "war on terror." Citing "national security" considerations, it is claimed that government spying is for the sole and limited purpose of preventing terrorist attacks.

This lie has already been exposed by the publication of documents revealing systematic NSA spying on the communications of people all over the world, including the governments of nominal allies of the United States, such as Germany and France. Now, it has been further exposed by the revelation that information obtained through warrantless snooping is used to rig criminal prosecutions that have nothing to do with terrorism.

As the *World Socialist Web Site* explained from the outset, America's so-called "war on terror" was and remains the pretext for military aggression abroad and the shredding of democratic rights at home. The real target of the massive expansion of police powers implemented in the course of the "war on terror" is not Al Qaeda, but the American people.

The 20th century saw a host of regimes, many of them backed by the CIA, that used "national security" and the supposed struggle against "terrorism" to justify authoritarian rule. Examples include the military dictatorships in Chile under Augusto Pinochet and Argentina under Jorge Rafael Videla. The Nazis themselves blamed the 1933 Reichstag Fire (for which

they were actually responsible) on "terrorism," using it as a justification for the suspension of democratic rights.

In the name of the "war on terror," the US government has already asserted its "right"—and acted on such assertions—to carry out unlimited surveillance, torture, imprisonment without trial and drone assassinations, including of US citizens. The preparations for a police state in America are well advanced.

Within the US, the government's attacks on democratic rights are overwhelmingly unpopular. Nevertheless, they enjoy the full-throated support of both political parties and the media.

These developments must be taken as an urgent warning to the working class.

The preparations for dictatorship are driven by the immense growth of social inequality. Democratic processes are incompatible with the vast and ever-increasing concentration of wealth at the very top of society. They are also incompatible with the growth of militarism and an expanding and ever more powerful military-intelligence-industrial complex.

The ruling class is terrified of the emergence of popular opposition to its policies of war and austerity. It plans to use its Big Brother spying apparatus to carry out mass repression.

Only an independent political movement of the working class in opposition to the profit system can secure democratic rights and halt the drive towards dictatorship.



To contact the WSWS and the  
Socialist Equality Party visit:

**[wsws.org/contact](http://wsws.org/contact)**